

Message Text

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ACTION DLOS-05

INFO OCT-01 ARA-06 IO-10 ISO-00 USIE-00 ACDA-05 AGR-05

AID-05 CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 OFA-01

COME-00 DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01

H-02 INR-07 INT-05 JUSE-00 L-02 NSAE-00 NSC-05 NSF-01

OES-03 OMB-01 PA-01 PM-03 PRS-01 SP-02 SS-15 INRE-00

SSO-00 NSCE-00 TRSE-00 /103 W
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FM AMEMBASSY LIMA

TO SECSTATE WASHDC IMMEDIATE 4931

USMISSION GENEVA IMMEDIATE

C O N F I D E N T I A L LIMA 3507

FOR USDEL LOS

E.O. 11652: GDS

TAGS: PLOS, PE

SUBJECT: PERUVIAN FOREIGN MINISTRY REQUESTS CLARIFICATION
OF U.S. POSITION ON DEEP SEABEDS ISSUE

1. AMBASSADOR ANTONIO BELAUNDE, FOREIGN MINISTRY EXPERT ON LOS, ASKED EMBASSY OFFICER APRIL 28 FOR CLARIFICATION OF VARIOUS POINTS WHICH PERUVIAN LOS DELEGATION HAD RECEIVED FROM UNDER SECRETARY MAW DURING COVERSTATION IN GENEVA WEEK OF APRIL 14-18. BELAUNDE THEN READ FROM A CLASSIFIED DESPATCH PREPARED BY PERUVIAN REPRESENTATIVE DE SOTO WHICH REPORTED ON CONVERSATIONS THE LATTER HAD HELD WITH MAW AND POSSIBLY OTHER MEMBERS OF U.S. DELEGATION ON THE JURIDICAL STRUCTURE OF THE AUTHORITY OF THE DEEP SEABED. FOLLOWING ARE SPECIFIC ISSUES AND QUESTIONS WHICH BELAUNDE RAISED: (FOLLOWING IS PARAPHRASED FROM SPANISH IN THE REPORT.)

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A. TRANSFER OF TITLE TO EXPLOIT SEABED RESOURCE -
ALLEGED U.S. POSITION: TITLE TO USE OF THE RESOURCE
WOULD BE TRANSFERRED TO THE CONTRACTING PARTY (CON-
TRACTANTE) WHEN THE PRINCIPAL INVESTMENT IS MADE.
WITHOUT SUCH TRANSFER OF TITLE, NO FINANCING WOULD BE
POSSIBLE. QUESTIONS: HOW CAN TITLE BE TRANSFERRED
WITHOUT THE EXPRESS CONSENT OF THE AUTHORITY? IS SOME
KIND OF MORTGAGE SYSTEM ENVISAGED THROUGH THE BANKING
SYSTEM? WHAT OTHER KINDS OF FINANCING WOULD BE POSSIBLE?

B. PROSPECTING OPERATIONS - ALLEGED U.S. POSITION:
THE USG PROPOSES THAT PROSPECTORS WOULD BE OBLIGED TO
MAKE AVAILABLE POTENTIAL DATA TO THE AUTHORITY BUT IN
SUCH A WAY AS TO PROTECT THEIR PROPERTY RIGHTS TO THE
DATA. THUS, PROSPECTORS WOULD MAKE AVAILABLE GENERAL
COORDINATES CONCERNING THEIR EXPLORATION, BUT NOT
SPECIFIC COORDINATES. QUESTION: WHAT IS THE DEFINI-
TION OF GENERAL COORDINATES?

C. CONTRACTORS AND TECHNOLOGY TRANSFER - ALLEGED
U.S. POSITION: CONTRACTORS IN RESERVED AREAS WOULD BE
OBLIGED TO FURNISH THE AUTHORITY WITH "TECHNOLOGICAL
INFORMATION" (INFORMACION SOBRE TECNOLOGIA) BUT NOT
TECHNOLOGY ITSELF. QUESTION: WHAT IS THE DIFFERENCE
BETWEEN THESE TWO CONCEPTS?

D. TRIBUNAL AND ROLE OF INJUNCTION - ALLEGED
U.S. POSITION: THE TRIBUNAL SHOULD HAVE THE POWER
OF "INJUNCTIVE RELIEF." QUESTION: WHAT ARE THE CON-
SEQUENCES OF NON-COMPLIANCE WITH SUCH AN INJUNCTIVE
RELIEF ORDER? (NOTE: BELAUNDE EXPLAINED THAT HIS CON-
CEPT CAUSES PROBLEMS FOR COUNTRIES WITH ROMAN LAW
SYSTEM, SINCE INJUNCTIVE POWERS OF COURTS IN MANY
LATIN COUNTRIES ARE VERY LIMITED.)

E. AMENDMENTS TO THE SYSTEM - ALLEGED U.S.
POSITION: USG FAVORS TACIT APPROVAL OF AMENDMENTS
PER THE ICAO MECHANISM, BUT WITHOUT REPEAT WITHOUT
AMENDMENTS PASSING THROUGH THE ASSEMBLY. QUESTION:
HOW WOULD THIS BE POSSIBLE, SINCE THE ICAO SYSTEM
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REQUIRES ACTION BY ITS EQUIVALENT BODY AND THEREFORE
PRESUMABLY THE AUTHORITY'S ASSEMBLY WOULD BE INVOLVED
IN SOME WAY IN CONSIDERATION OF AMENDMENTS TO THE SYSTEM?

2. COMMENT/ACTION REQUEST: WHILE THE EMBASSY DOES NOT
POSSESS ADEQUATE TECHNICAL INFORMATION TO RESPOND TO
SUCH QUESTIONS ITSELF AND FURTHER DOES NOT BELIEVE IT
WOULD GENERALLY BE USEFUL TO BECOME INVOLVED HERE IN

HIGHLY TECHNICAL QUESTIONS, WE ARE PLEASED THAT
FOREIGN MINISTRY FOR THE FIRST TIME HAS DECIDED TO
DISCUSS SUCH QUESTIONS WITH US. THUS, WE BELIEVE IT
WOULD BE USEFUL FOR THE DEPARTMENT AND U.S. LOS DEL
GENEVA TO MAKE AVAILABLE TO US WHATEVER INFORMATION
MAY ALREADY BE AVAILABLE. WE REALIZE THAT, GIVEN THE
NATURE OF THE QUESTIONS, IT IS POSSIBLE THAT NO SPECIFIC
ANSWERS HAVE YET BEEN FORMULATED, BUT WOULD NONETHELESS
LIKE TO RESPOND AS CANDIDLY TO BELAUNDE AS POSSIBLE.
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